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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,062	01/04/2002	Stephen A. Milks	8416-000008	5754

7590 01/13/2005

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EXAMINER

FREAY, CHARLES GRANT

ART UNIT

PAPER NUMBER

3746

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/038,062	MILKS, STEPHEN A.
	Examiner Charles G Freay	Art Unit 3746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 19 October 2004.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1,2,5-11,13-16,18 and 19 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1,2,5-8,10, 1116 and 19 is/are rejected.
 7) Claim(s) 9 and 18 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 04 January 2002 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the details of the motor casing sealing the motor and bearings must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Applicant is advised that should claim 5 be found allowable, claim 6 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 5-8, 10, 13-16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raab et al in view of Fujisaki et al (USPN 4,684,839).

Raab teaches a housing assembly which includes a front face portion, a main base portion (11-13) and a back face portion. The base portion includes a thin low profile electric motor (15) and a fan blade. A base portion includes a bottom face (11) having elongated support members (19,20) that are capable of being pivotally disposed in an extended position or a contracted position or points in between as a result of their being mounted on a pivot pin. Raab does not discuss that the motor is about 1 inch thick, that the housing is made of polymeric material or that the support members are

manually actuated. Fujisaki et al discloses a low profile DC motor with a thickness of about 5.2 mm (see col. 9 lines 24-27), with a housing made of a synthetic resin (which are commonly polymers) and has a sealed motor housing. In Fujisaki et al the only opening is for the shaft through bearing element (53). The tight and extended space between the shaft and bearing forms a labyrinth seal. At the time of the invention it would have been obvious to one of ordinary skill in the art to substitute a sealed low profile electric motor for the generically disclosed electric motor of Raab in order to provide an efficient low profile drive means for the Raab fan devise. Further, with regards to the thickness of the fan being three inches, the thickness of the fan would be considered and obvious design choice.

With regards to claims 10, 13-16 and 19 the examiner notes that it would have been obvious to remove the spring drive for the support members and to have the rotation of the members performed manually. Such an arrangement would reduce parts and simplify the devise.

Claims 2 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raab et al in view of Fujisaki et al as applied to claims 1 and 10 above, and further in view of Hung (USPN 5,839,205).

As set forth above Raab et al in view of Fujisaki et al discloses the invention substantially as claimed but does not disclose that the dc motor is run on 12 volts. Hung discloses a fan which is driven by 12 volts. At the time of the invention it would have

been obvious to one of ordinary skill in the art to size the motor of Raab or Fujisaki et al so that it could operate on readily available 12v current sources as taught by Hung.

Claims 10 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raab et al.

Raab teaches a housing assembly which includes a front face portion, a main base portion (11-13) and a back face portion. The base portion includes a thin low profile electric motor (15) and a fan blade. A base portion includes a bottom face (11) having elongated support members (19,20) that are capable of being pivotally disposed in an extended position or a contracted position or points in between as a result of their being mounted on a pivot pin. Raab does not discuss that the support members are manually actuated. At the time of the invention it would have been obvious to remove the spring drive for the support members and to have the rotation of the members performed manually. Such an arrangement would reduce parts and simplify the devise.

Further, with regards to the thickness of the fan being three inches, the thickness of the fan would be considered and obvious design choice.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Raab et al claim 10 above, and further in view of Hung (USPN 5,839,205).

As set forth above Raab et al discloses the invention substantially as claimed but does not disclose that the dc motor is run on 12 volts. Hung discloses a fan which is driven by 12 volts. At the time of the invention it would have been obvious to one of

ordinary skill in the art to size the motor of Raab et al so that it could operate on readily available 12v current sources as taught by Hung.

Response to Arguments

Applicant's arguments with respect to claims 1, 2, 5-11, 13-16, 18 and 19 are have been considered but are moot in view of the new ground(s) of rejection.

The examiner notes two of the applicant's arguments. First that Raab discloses a can type motor and that it nowhere suggest a thin low profile motor. The examiner disagrees. Raab only discusses an electric motor and the drawing clearly shows a low profile motor. Second the applicant argues that Raab nowhere teaches of manual positioning of the support members in a range of positions. While Raab does not teach this feature it would have been obvious to one of ordinary skill in the art to make the automated movement of the Raab support members manual for the reasons set forth in the above rejections. The examiner notes that in Raab the members move through the same range of positions as the applicant's device.

Allowable Subject Matter

Claims 9 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Each of Miyake, Lohr, Kakizaki, Haydon et al, Monma and Suzuki disclose low profile sealed motors.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles G Freay whose telephone number is 571-272-4827. The examiner can normally be reached on Monday through Friday 8:30 A.M. to 5:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on 571-272-4834. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Charles G Freay
Primary Examiner
Art Unit 3746

CGF
December 23, 2004